

**Jay Bennett**  
Director  
Federal Regulatory Relations

1275 Pennsylvania Avenue, N.W., Suite 400  
Washington, D.C. 20004  
(202) 383-6429  
Fax: (202) 347-0320

**PACIFIC**  **TELESIS**  
Group-Washington

January 11, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
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Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Dear Mr. Caton:

Re: RM No. 8723

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their *"Reply Comments of Pacific Bell and Nevada Bell"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Amendment of Section 69.2(m)  
and (ee) of the Commission's Rules  
to Include Independent Public  
Payphones Within the "Public  
Telephone" Exemption from End  
User Common Line Access  
Charges

RM No. 8723

**REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL**

Pacific Bell and Nevada Bell ("the Pacific Companies") hereby file Reply Comments on the above-captioned Petition for Rulemaking ("Petition") of the American Public Communications Council, Inc. (APCC), in which APCC asks the Commission to include private payphones within the definition of "public telephone" in Section 69.2(ee) of the Rules and to clarify that private payphone owners (PPOs) are not "end users" under Section 69.2(m) of the Rules.

The comments on APCC's Petition demonstrate that it should not be granted. We submit that each of the following points is dispositive.

- LECs, unlike OPPs, do not receive commissions from IXC's for calls made from their phones. (AT&T, p. 2.)

- In addition to commissions from IXCs, PPOs already receive subsidy payments from IXCs of \$6 per phone per month to compensate them for the cost of providing access to interstate operator services. (MCI, p. 2.)

- The EUCL charge is designed to recover the non-traffic sensitive costs of an exchange loop from the subscriber to the loop. LEC equipment is unique in that it presents no readily identifiable end user who may be held accountable for line charges. It was this characteristic (not that the equipment was publicly used) that persuaded the Commission to adopt a different cost recovery method for LEC payphone investment. (BellSouth, p. 2.)

- It is therefore reasonable to recover a portion of LEC public telephone costs through usage-sensitive access charges. It does not follow that OPP costs should be recovered in the same manner. The non-traffic sensitive costs incurred by LECs to provide service to an OPP are solely attributable to the OPP. Recovering these costs through a EUCL charge is consistent with Commission policy that costs should be recovered from the cost. (NYNEX, p. 2.)

- If PPOs did not pay EUCL charges, other end users would be required to pay them through increases to CCL charges. (MCI, pp. 1-2.)

- If OPPs were no longer subject to EUCL charges, other entities (such as subscribers to semi-public telephones, hotels and hospitals) would also claim that they should not pay EUCL charges because their phones are used by the public. This would create a rate distinction based on how a telephone line is used, a distinction long avoided by the Commission. (NYNEX, p. 2.)

- Ameritech and Southwestern Bell have filed petitions for waiver to permit them to assess a pay telephone use fee on IXCs for each interstate call placed from their public telephones. This would recover LEC public telephone costs more efficiently, by burdening only those carriers handling interstate calls originating from those telephones. (Southwestern Bell, p. 4.)

- APCC's Petition seeks to gain favorable treatment for OPPs at the expense of other access ratepayers. Section 202(a) of the Communications Act prohibits discrimination between customers without reasonable justification. APCC has presented no evidence demonstrating that such discrimination would be reasonable in its case. (GTE, pp. 3-4.)


These commentors have stated compelling reasons that APCC's Petition should be denied. The Pacific Companies agree with them.

MCI says that the Commission should "require LECs to impute a SLC for [public telephone] lines so that end users and carriers are not required to subsidize these costs." (MCI, p. 2.) Pacific already imputes the EUCL rate when establishing its public telephone price floors. As US West's comments suggest, many states have already adopted this requirement. (US West, p. 5.) The imputation issue is not properly before the Commission, and there is no reason for the Commission to act upon it.

For the foregoing reasons, the Pacific Companies urge the Commission to deny  
the Petition.

Respectfully submitted,

PACIFIC BELL  
NEVADA BELL

  
\_\_\_\_\_  
LUCILLE M. MATES  
JOHN W. BOGY

140 New Montgomery Street, Rm. 1530A  
Fifteenth Floor  
San Francisco, California 94105  
(415) 542-7634

JAMES L. WURTZ  
MARGARET E. GARBER

1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 383-6472

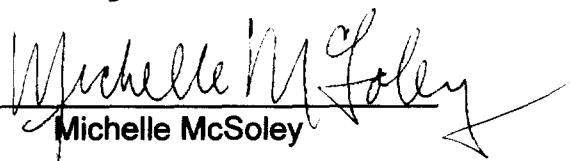
Their Attorneys

Date: January 11, 1996

## CERTIFICATE OF SERVICE

I, Michelle McSoley, on behalf of Pacific Bell do hereby certify that I caused copies of the foregoing "REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL" regarding RM No. 8723 to be served by hand or by first-class United States mail, postage prepaid, upon the parties appearing on the attached service list this 11th day of January, 1996.

BY:

  
Michelle McSoley

PACIFIC TELESIS GROUP-WASHINGTON  
1275 Pennsylvania Avenue, N.W., Suite 400  
Washington, D.C. 20004

## SERVICE LIST

INTERNATIONAL TRANSCRIPTION\*  
SERVICE, INC. (ITS)  
1919 M Street, N. W.  
Room 246  
Washington, D. C. 20554

Mary J. Sisak  
Donald J. Elardo  
MCI TELECOMMUNICATIONS  
CORPORATION  
1801 Pennsylvania Avenue, N. W.  
Washington, D. C. 20006

Mark C. Rosenblum  
Peter H. Jacoby  
Richard H. Rubin  
Attorneys for AT&T CORPORATION  
295 North Maple Avenue  
Room 3252I3  
Basking Ridge, NJ 07920

William J. Balcerski  
Attorney for NYNEX TELEPHONE  
COMPANIES  
1111 Westchester Avenue  
White Plains, NY 10604

M. Robert Sutherland  
Richard M. Sbaratta  
Helen A. Shockey  
Attorneys for BELLSOUTH  
TELECOMMUNICATIONS, INC.  
4300 Southern Bell Center  
675 West Peachtree Street, N. E.  
Atlanta, Georgia 30375

Robert M. Lynch  
Durward D. Dupre  
J. Paul Walters, Jr.  
Attorneys for SOUTHWESTERN BELL  
TELEPHONE COMPANY  
One Bell Center  
Room 3520  
St. Louis, Missouri 63101

Gail L. Polivy  
Attorney for GTE SERVICE CORP.  
1850 M Street, N. W.  
Suite 1200  
Washington, D. C. 20036

Gregory L. Cannon  
Attorney for US WEST  
COMMUNICATIONS, INC.  
1020 19th Street, N. W.  
Suite 700  
Washington, D. C. 20036

\* BY HAND

Gary L. Phillips  
Counsel for AMERITECH  
1401 H Street, N. W.  
Suite 1020  
Washington, D. C. 20005

Leon M. Kestenbaum  
Jay C. Keithley  
H. Richard Juhnke  
SPRINT CORPORATION  
1850 M Street, N. W.  
11th Floor  
Washington, D. C. 20036

Albert H. Kramer  
Robert F. Aldrich  
David B. Jeppsen  
KECK, MAHIN & CATE  
Attorneys for AMERICAN PUBLIC  
COMMUNICATIONS COUNCIL, INC.  
1201 New York Avenue  
Penthouse Suite  
Washington, D. C. 20005-3919